

# COASTAL CONSERVANCY

Staff Recommendation

October 5, 2006

## **Tomales Farm and Dairy Conservation Easement**

File No. 06-046

Project Manager: Su Corbaley

**RECOMMENDED ACTION:** Authorization to disburse up to \$500,000 to the Marin Agricultural Land Trust (MALT) to acquire an agricultural conservation easement over 178 acres of the Tomales Farm and Dairy property.

**LOCATION:** Tomales Farm and Dairy is located on the southern edge of the unincorporated village of Tomales in west Marin County, along the Tomales-Petaluma Road (Exhibit 1).

**PROGRAM CATEGORY:** San Francisco Bay Area Conservancy Program

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### **EXHIBITS**

Exhibit 1: Project Location and Site Map

Exhibit 2: Parcel Detail Map

Exhibit 3: Keyes Creek Images

Exhibit 4: Letters of Support

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### **RESOLUTION AND FINDINGS:**

Staff recommends that the State Coastal Conservancy adopt the following resolution pursuant to Sections 31160 - 31165 of the Public Resources Code:

“The State Coastal Conservancy hereby authorizes the disbursement of an amount not to exceed five hundred thousand dollars (\$500,000) to the Marin Agricultural Land Trust for the purpose of the acquisition of an agricultural conservation easement over 178 acres of the Tomales Farm and Dairy property (Marin County Assessors Parcel Nos. 102-140-16 and 102-140-06), subject to the following conditions:

1. Prior to the disbursement of any Conservancy funds for acquisition, the Marin Agricultural Land Trust shall:
  - a. Submit for review and approval of the Executive Officer of the Conservancy (the “Executive Officer”), all relevant acquisition documents, including, without limitation, appraisals, purchase agreements, conservation easements, escrow instructions and documents of title; and

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- b. Provide written evidence to the Executive Officer that all other funds necessary to the acquisition have been obtained.
2. The purchase price of the conservation easement shall not exceed fair market value, as established in an appraisal approved by the Executive Officer of the Conservancy.
3. The easement interest acquired under this authorization shall be managed and operated in a manner consistent with the purpose of agricultural conservation, open space preservation and natural resource protection. The property interests acquired under this authorization shall be permanently dedicated to those purposes in accordance with Public Resources Code Section 31116(b).
4. Conservancy funding shall be acknowledged by erecting and maintaining on the property a sign, the design and placement of which has been reviewed and approved by the Executive Officer.”

Staff further recommends that the Conservancy adopt the following findings:

“Based on the accompanying staff report and attached exhibits, the State Coastal Conservancy hereby finds that:

1. The proposed authorization is consistent with Chapter 4.5 of Division 21 of the Public Resources Code (Sections 31160 *et seq.*), regarding the Conservancy’s mandate to address the preservation of agricultural lands.
2. The proposed project is consistent with the Project Selection Criteria and Guidelines adopted by the Conservancy on January 24, 2001.
3. The Marin Agricultural Land Trust is a nonprofit organization existing under Section 501(c)(3) of the U.S. Internal Revenue Code, whose purposes, which include the preservation of land for agricultural and open space opportunities, are consistent with Division 21 of the Public Resources Code.”

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**PROJECT SUMMARY:** The proposed authorization would enable the Marin Agricultural Land Trust to acquire an agricultural conservation easement over a 178-acre portion (the “Eastern TFD”) of the Tomales Farm and Dairy (“TFD”) property situated in Tomales village in west Marin County. The TFD property is comprised of a total of 505.5 acres, owned by Tomales Farm and Dairy, LLC, and includes a homestead, worker residences, buildings associated with dairy operations, and pasture lands for grazing and small-scale crop growing. Of those 505.5 acres, 416 are undeveloped open space pasture. The remaining 89.5 acres consists of dairy operations infrastructure and residential buildings.

The TFD property is formerly known as the Cerini Ranch, having been owned and used as a dairy ranch by the Cerini family since 1925. In late 2005 Mrs. Cerini sold the 505.5-acre dairy farm to Tomales Farm and Dairy LLC.

The principal owners of Tomales Farm and Dairy LLC are both involved in their own commercial agricultural endeavors, each operating certified organic agricultural enterprises. One

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grows and produces wine; the other beef and wine. As such, TFD will bring those organic practices to the dairy, cheese, livestock grazing and other agriculture endeavors on the property.

Under the proposed plan by the current owners for development of TFD, it is anticipated that the 416 acres of pasture land will be protected by two agricultural conservation easements to be held by MALT and to be acquired in two phases: an easement over 178 acres over pasture land on the eastern portion of the property (the subject of this proposed authorization and marked as "MALT-1 Easement" on Exhibit 2) by the end of 2006, followed by an easement over 238 acres of pastureland on the western portion of the property (and marked as "MALT-2 Easement" on Exhibit 2) by the end of 2007. The sale of the easements will finance property improvements for reinstating dairy operations and livestock grazing, growing specialty crops on small tracts, and initiating a boutique industry to manufacture an aged hard cheese for distribution and sale.

The owners are relying on the sale of an easement over the 178-acre eastern property to finance the start of their dairy operations. If an easement is not secured over the MALT-1 Easement (eastern) property, it will not be practicable to go forward with the second easement, and the likelihood that the property would be sold and developed into residential estates would increase. Further, MALT has indicated it would not acquire an easement over the eastern property without a commitment of the property owner to sell to MALT a similar easement over the MALT-2 Easement (western) property. Therefore, the proposed project to acquire an easement over 178 acres of the property is a catalyst for the entire project, which, if realized, will result in protection of a total of the 416 acres of agricultural lands and the elimination of the potential for far denser development along the increasingly-traveled Tomales-Petaluma Road.

Continued activities and improvements planned for the eastern acreage are likely to include rotational livestock grazing and the construction of a residence to be occupied by the owner or farm management. Support structures for the dairy business will be located on the remainder of the 505.5 acres.

The eastern property is currently encumbered by several Williamson Act contracts (a separate contract for each of the several Tax Assessor Parcels comprising the MALT-1 Eastern property). These Williamson Act contracts ensure that the property will not be taken out of agricultural use. However, the contracts are not perpetual and can be allowed to expire over a period of ten years or, under certain circumstances, can be terminated earlier. Once expired or terminated, the property would not be protected from nonagricultural practices and would, therefore, be vulnerable to denser residential, or estate home, development. Although not legally established, the MALT-1 Easement property may consist of up to 13 legal parcels, each of which might be separately developed in the future. An agricultural conservation easement would ensure the property could not be developed for nonagricultural purposes.

The purchase of agricultural land for use as rural estates is one of the most pressing problems facing the agricultural sector in Marin County because it often results in increased property values, making it hard for ranchers to compete with increased lease and purchase prices. More importantly, Marin's agricultural heritage is diminished with every acre removed from production. The purchase of the agricultural conservation easement over the Eastern TFD property will accomplish many goals: a longtime ranch property, important to the history and complexion of Tomales, will remain in production and become the initial stage in establishing a newly vitalized business in the area; the aesthetic scenic value of western Marin will be

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preserved; and the natural resources and water quality of Walker Creek and Tomales Bay will be protected from increased runoff from development.

Specific provisions of the proposed easement would limit development of the property to one residence of up to 3,000 square feet and an associated garage up to 700 square feet and prohibit subdivision of the land. The easement would also prohibit recreational off-road vehicle riding; restrict tree harvesting or removal; generally prohibit dumping of wastes, refuse, or debris, except organic matter for agricultural uses; bar practices that cause soil degradation or reduced water quality; restrict surface alteration or excavation; and prohibit permanent separation of water rights from the property. In addition, the watercourse located on the property, Keyes Creek, will be protected from impacts by placing further limits on the use of those areas. The easement would also require annual monitoring by MALT and a report of that monitoring to be provided to the Conservancy. Finally, the easement would allow for the retention by the owner of three development rights associated with the Eastern TFD property: one would allow for the single residential structure permitted under the easement and the other two would be transferable to two other adjacent parcels to be created by lot line adjustment, to allow for development of residential dwellings on those parcels.

**Site Description:** The Tomales Farm and Dairy property is situated along Tomales-Petaluma Road on the southern edge of the village of Tomales. The property consists of a total of 505.5 acres, which is what remains from the Cerini's original holdings – several parcels were sold/deeded over time to local entities such as a church, the school district, and water treatment facility. The entire 505.5-acre property is transected by, or adjacent to, Keyes Creek, which drains to Tomales Creek via Walker Creek, an important tributary to Tomales Bay for water. In the past, Keyes Creek was navigable and served to transport Tomales agricultural products to San Francisco and beyond. Today, Keyes Creek is a seasonal creek which flows during the rainy season. It flows east to west, draining all of the Eastern TFD acreage, across the parcel on which the dairy and commercial creamery will be located where it eventually becomes wetland habitat before joining Walker Creek (Exhibit 3).

Due to impaired water quality that threatens habitat for endangered fishes, reptiles and migrating birds, Tomales Bay has long been recognized by local, state, and federal agencies as deserving of a high level of protection. Many threatened and endangered species inhabit the watershed, including California freshwater shrimp, coho salmon and steelhead trout. In 1981, Tomales Bay became a part of the Gulf of Farallones National Marine Sanctuary, one of three such marine sanctuaries in the state. It supports large numbers of wintering and migrating shorebirds, making it a significant habitat to preserve and protect from degradation. A conservation easement would prevent subdivision of the property and catalyze the development of a certified organic dairy operation that together would help eliminate the threat of reduced scenic values and increasing water quality issues that would result, but would serve to improve water quality runoff by instituting best management and environmentally sound ranching practices.

**Project History:** MALT's agricultural conservation easement program is part of an overall effort to preserve Marin County's agricultural land. Forty percent, or 120,000 acres, of Marin County's privately owned land is used for agriculture. Of the agricultural lands, approximately 29 percent, or 35,000 acres, is protected forever by agricultural conservation easements held by

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MALT. MALT purchased its first conservation easement in 1983, and now holds 51 agricultural conservation easements.

The Conservancy has a history of interest and involvement in protecting, restoring, and enhancing the agricultural and natural resource values of west Marin. Over the past nearly 20 years, the Conservancy has granted \$6,077,500 to MALT resulting in the protection of 8,212 acres of agricultural lands with significant habitat and natural resource protection elements.

Other west Marin County agriculture projects in which the Conservancy has been involved include the 1989 Conservancy study entitled “Evaluation of Agricultural Land Trusts” in which MALT was acknowledged as a successful, competent nonprofit organization that had met all the goals required by the Conservancy's previous grants, and grants to assist with riparian corridor fencing on several ranch properties.

Additionally, the Conservancy invested in improving the Walker Creek watershed and as such has been involved in projects that affect Walker Creek water quality. In 2001, the Conservancy funded the development of a coordinated permit application for ranchers to utilize to carry out projects on their property that would benefit habitat and water quality entering Walker Creek. In 2004, the Conservancy provided \$600,000 to the Marin County Resource Conservation District to implement that permit program.

### **PROJECT FINANCING:**

Coastal Conservancy	\$500,000
MALT (private donations)	<u>500,000</u>
<b>Total Project Cost</b>	<b>\$1,000,000</b>

The proposed funding source for the Conservancy's contribution is Proposition 40, the “California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002”. Proposition 40 funds may be used for the acquisition and protection of land and water resources in accordance with the provisions of the Conservancy's enabling legislation (Public Resources Code Section 5096.650). This project is consistent with Proposition 40 in that it will preserve open space and farmland that is threatened by development and protect critical coastal resources by reducing or controlling surface runoff to Tomales Bay via Walker Creek. As discussed in detail below, the project is also entirely consistent with Chapter 4.5 of the Conservancy's enabling legislation. Finally, the proposed project is appropriate for Proposition 40 grant funding priority, since it includes a substantial commitment of matching funds (Public Resources Code §5096.651).

### **CONSISTENCY WITH CONSERVANCY'S ENABLING LEGISLATION:**

The proposed project is undertaken pursuant to Chapter 4.5 of Division 21 of the Public Resources Code (Sections 31160-31165) which authorizes the Conservancy to undertake projects and award grants in the nine-county San Francisco Bay Area to public and private agencies and organizations.

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Consistent with §31162, the proposed agricultural conservation easement is located in Marin County, one of the nine bay-area counties, and will help to achieve several of the primary goals of the San Francisco Bay Area Conservancy Program by protecting open space, scenic areas, and wildlife habitats (§31162(b)), and assisting with the implementation of the Marin County General Plan (§31162(c)). The Marin County General Plan includes a specific policy supporting the acquisition of perpetual agricultural conservation easements. Acquisition of an agricultural conservation easement on the TFD property will ensure that the open space character of this property will be forever protected.

In addition, the project satisfies all of the five criteria for determining project priority under §31163(c), as follows: 1) the project serves a multi-jurisdictional constituency, since it will preserve open space and scenic areas for the enjoyment of both local residents and visitors who come from across the region and the nation to the area in which the project is located; 2) the project can be implemented in a timely fashion: once funded, the easement acquisition is expected to occur within two months; 3) in the event the project is not implemented promptly, the opportunity for completion of the purchase of the property and the associated grant of the easement may be lost; 4) the Conservancy funding for the easement acquisition is matched by funds donated to MALT; and 5) the project is fully consistent with and supported by adopted local plans, including the *County of Marin, Unit II (Northern Marin) Local Coastal Plan* as described in the Consistency with Local Coastal Program Policies below.

### **CONSISTENCY WITH CONSERVANCY'S STRATEGIC PLAN GOAL(S) & OBJECTIVE(S):**

Consistent with **Goal 7, Objective A**, the proposed project will increase by 178 acres the acreage of agricultural conservation easements over key coastal farmlands.

Consistent with **Goal 12, Objective A**, the proposed project will increase by 178 acres the acreage of farmland protected from urban encroachment.

### **CONSISTENCY WITH CONSERVANCY'S PROJECT SELECTION CRITERIA & GUIDELINES:**

The proposed project is consistent with the Conservancy's Project Selection Criteria and Guidelines adopted January 24, 2001, in the following respects:

#### **Required Criteria**

1. **Promotion of the Conservancy's statutory programs and purposes:** See the "Consistency with Conservancy's Enabling Legislation" section above.
2. **Consistency with purposes of the funding source:** See the "Project Financing" section above.
3. **Support of the public:** Congresswoman Lynn Woolsey, State Senator Carole Migden, State Assemblyman Joe Nation and Marin County Supervisor Steve Kinsey support this project, as does Marin County dairy ranchers Albert Straus of the Straus Family Dairy and Lynn

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Giacomini Stray of Point Reyes Farmstead Cheese Company. See Exhibit 4 for letters of support.

4. **Location:** The proposed easement acquisition is located in the town of Tomales in western Marin County, within the jurisdiction of the San Francisco Bay Area Conservancy Program.
5. **Need:** Due to its Bay Area location, and its number of legal parcels that could be subdivided into small residential lots, the Tomales Farm and Dairy property, is highly desirable for purchase by non-agricultural buyers. The proposed agricultural easement will permanently protect the agricultural uses of this land, and eliminate the threat for dense residential development in Tomales, by preserving an open space buffer along the southern fringe of Tomales. While MALT has a long history of successful easement acquisitions, their ability to continue the easement program is predicated on ongoing public funding, in addition to private donations. MALT has several projects in development in addition to the proposed project. In order to leverage its own privately donated funds to maximize its program success in Marin County, MALT needs Conservancy funding to complete this acquisition.
6. **Greater-than-local interest:** A vital part of the North Bay greenbelt, agricultural land in Marin County provides open space, scenic vistas, and wildlife habitat. In addition to serving the residents of Marin County by helping to preserve the agricultural history and protecting habitat values, this project serves local area travelers and tourists that visit west Marin to enjoy its unspoiled landscape, and its incredible scenic vistas. Preserving the natural resources of this site and protecting it from development furthers these values.

### Additional Criteria

9. **Leverage:** See the “Project Financing” section above. The \$500,000 of Conservancy funds for the easement acquisition will be matched by \$500,000 in private funds.
12. **Readiness:** MALT and Tomales Farm and Dairy have been discussing the acquisition since late 2005; Conservancy authorization of this project will enable MALT to proceed with the acquisition. It is anticipated the transaction will be completed by the end of December 2006.
13. **Realization of prior Conservancy goals:** See the “Project History” section above.
14. **Cooperation:** This project is a cooperative effort among the Conservancy, MALT, and the landowners.

**CONSISTENCY WITH LOCAL COASTAL PROGRAM POLICIES:** The acquisition by MALT of a conservation easement on Tomales Farm and Dairy is consistent with the *County of Marin, Unit II (Northern Marin) Local Coastal Plan* (LCP). The local coastal program policies of the LCP include alternative methods of preserving agricultural land (found at Agriculture Chapter, Item 7), indicating “[T]he County strongly supports the objectives of the Marin Agricultural Land Trust to protect agricultural lands through . . . purchase . . . of conservation easements on agricultural lands.” By acquiring a conservation easement over the Tomales Farm and Dairy property, this project will achieve the above stated objectives.

**COMPLIANCE WITH CEQA:** Acquisition of a conservation easement over the Tomales Farm and Dairy property is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under 14 Cal. Code of Regulations Section 15325 because it

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involves the transfer of ownership interests in land to preserve open space and to allow continued agricultural use of the property. Staff will file a notice of exemption upon approval of the project.